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10/580,369	10/26/2006	Pierre Malek	0617-1024	2078
466	7590	11/25/2009	EXAMINER	
YOUNG & THOMPSON			ALLEN, JEFFREY R	
209 Madison Street				
Suite 500			ART UNIT	
Alexandria, VA 22314			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,369	<b>Applicant(s)</b> MALEK, PIERRE	
	<b>Examiner</b> JEFFREY ALLEN	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (U.S. Patent No. 4,480,762).

3. Thomas discloses a device capable of storing tools comprising a container (2) and a closure means (1), the closure means comprising a horizontal plane portion (20), a first vertical flange (28 and 22), and a second vertical flange (30 and 24), the flanges configured to take hold of the container and to co-operate with the plane portion to form an unclipping opening means configured to be actuated by applying pressure to the flanges, the plane portion accommodating stress deformation and configured to expel the container upon opening, and the flanges rotating in response to the pressure (Fig. 6), the closure means further being made of a plastic and semi-rigid material (abstract).

4. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Roy et al. (U.S. Patent No. 5,417,338).

5. Roy discloses a box (108) provided with an opening/closure system (102), having at least one recess capable of receiving the device of claim 1.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Vasudeva et al. (U.S. Patent Application Publication No. 2003/0029756).

8. Thomas discloses all the claimed limitations as shown above the claimed limitations but fails to teach wherein the container stores drill bits.

9. Vasudeva teaches that it is known in the art to store drill bits in a container (par. 40).

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have stored drill bits in the container of Thomas in order to protect them from being damaged.

11. Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Tsai (U.S. Patent No. 5,732,820).

12. Thomas discloses all the claimed limitations as shown above but fails to teach wherein each of the flanges has a surface provided with a non-slip means of a portion of its surface.

13. Tsai teaches that it is known in the art to manufacture a closure with a non-slip means (23) over a portion of its surface.

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14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the flanges of Thomas with non-slip means, as taught by Tsai in order to make it easier to grip the flanges.

15. Claims 1, 4, 5, 8 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Badtke et al. (U.S. Patent No. 4,342,403) in view of Thomas.

16. Badtke discloses a tool stowage device comprising a container (10) having an edge surrounding an open face and a tongue portion (30 and 32) extending from two opposite sides of the open face, the tongue portion having a width configured to receive inscriptions, and a transparent (col. 2, lines 37-38) lid (12) fastened to the container having a horizontal planar portion (46) and groove portions extending the length of the container to slidably engage the container.

17. Badtke fails to teach wherein the lid has two vertical flanges comprising upper portions extending above the horizontal planar portion and lower portions extending below the horizontal planar portion configured to engage with the tongue portions, the planar portion being plastically deformable and co-operating with the flanges to release the lower portions from the tongue portions.

18. Thomas teaches a closure means comprising a horizontal plane portion (20), a first vertical flange (28 and 22), and a second vertical flange (30 and 24), both having upper portions extending above the horizontal planar portion and lower portions extending below the horizontal planar portion configured to engage with the tongue portions of a container, the flanges configured to take hold of the container and to co-

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operate with the plane portion to form an unclipping opening means configured to be actuated by applying pressure to the flanges, the plane portion accommodating stress deformation and configured to expel the container upon opening, and the flanges rotating in response to the pressure (Fig. 6), the closure means further being made of a plastic and semi-rigid material (abstract).

19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the lid of Badtke with the structure taught by Thomas in order to make it easier to access the contents of the container.

20. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Badtke in view of Thomas as applied above and further in view of Liu (U.S. Patent No. 4,615,461).

21. Regarding claim 6, the modified container of Badtke teaches all the claimed limitations as shown above but fails to teach wherein the container comprises a female portion and the closure comprises a male portion configured to engage the female portion and block the closure from becoming separated from the container in the open position.

22. Liu teaches that it is known in the art to manufacture a container with a female portion (12) and a male portion (22) that engages the female portion and blocks the closure from becoming separated from the container in the open position.

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23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the modified container of Badtke with the male and female portions taught by Liu so that the closure is not lost during use.

24. Regarding claim 7, the modified container of Badtke teaches wherein the container comprises at least one closed face provided with an orifice (Liu, 12).

25. Claims 13-16 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Roy in view of Badtke and Thomas.

26. Regarding claim 13, Roy teaches all the claimed limitations as shown above but fails to teach wherein the container of claim 1 is held with in the box and wherein the container has two tongues to retain the container in the recess.

27. Roy teaches the use of tongues (156) to retain containers within the box.

28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the box of Roy with the modified container of Badtke inside since it is made to hold smaller container and in doing so it would be easier to transport and store the modified container of Badtke. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the modified container of Badtke with the tongues taught by Roy so that they are stable within the box.

29. Regarding claims 14-16, the modified box of Roy teaches wherein the at least two tongues comprise raising means for raising the container relative to the surface of the box (the tongues can be used to raise the container higher than the box), the lower

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portions of the flanges are circularly arcuate (Thomas, Fig. 5), and the lower portion of the flanges have a length less than or equal to the depth of the container.

30. Regarding claim 20, the modified box of Roy teaches all the claimed limitations as shown above.

31. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy in view of Badtke, Thomas and Liu.

32. The modified box of Roy teaches all the claimed limitations as shown above but fails to teach at least one face provided with at least one orifice.

33. The modified container of Badtke teaches all the limitations as shown above and It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine for the same reasons.

### ***Response to Arguments***

34. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

35. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 8:00 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./  
Examiner, Art Unit 3781

/Anthony Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781